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1951

File No. Village Panch II/51(R)

Legal Deptt

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Subject:— Rules under the Bom Village Panchayats Act 1933

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File No. Village Panch II/51 (R)

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Revised draft rules are sent herewith subject to the following observations.

1. A new rule containing the definitions of the various ~~experience~~ expressions used in the rules has been inserted under rule 2.

2. Rule 2 of the Local Self Government and Public Health Department draft has been omitted, as to prescribe in what manner a provident fund shall be established for the employees of a village panchayat, is not the function of the rules to be made under section 108(pp) of the Act. Generally that would be the method for establishing a provident fund.

3. Definition of "inferior servant" as given in draft rule 3 of the Local Self Government and Public Health Department draft is as follows :-

" An inferior servant' means a servant as defined in the Bombay Civil Service Rules." Under this definition everytime when the question arises whether a particular person is an inferior servant, a reference to the Bombay Civil Service Rules will have to be made. It is hardly possible that every village panchayat will have a copy of the Bombay Civil Services Rules. The proper course would be to give a self-contained definition of inferior servant. The Local Self Govt. and Public Health Department should consider whether the definition of inferior servant as given in the revised draft rule 2 is suitable or requires any modification from the administrative point of view.

4. It is provided in draft rule 7(4) of the Local Self Government and Public Health Department draft that " if any employee fails to certify in writing the correctness of the entries made in the pass-book within the period of one month he shall have no right to challenge the correctness of the account at any later date." Mere failure on the part of an

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Mere failure on the part of an employee to certify the correctness of the entries in a pass-book should not deprive him of his right to challenge the correctness of the account permannently, as the money belongs to him. This particular provision is therefore deleted.

5. The difinition of family given in rule 13(2) of the Local Self Government and Public Health Department draft has been transposed under rule 2.

Sd. J.R.Dhurandhar.
10/2

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 2685, dated the 12th February 1951.

VGP. 3-7-56.

A revised draft notification in place of L.S.G. & P.H.D. draft is sent herewith subject to the following observations:-

The R.L.A. in his opinion No. 13266, dated the 24th August 1951 at page 13 ante has held that the expression 'adult persons' not being defined in the Act cannot be defined in the Rules made under the Act. The L.S.G. & P.H.D.'s proposal to amend rule 5 has been made not with a view to define an adult person but with a view to have a clarification regarding the date with reference to which the age of a person is to be counted for registering him as a voter.

Although the word 'adult' would ordinarily mean a person who has attained the age of majority which in India is 18 years, it would be desirable to follow in the Rules made under an Act an expression used in the Act itself and therefore the expression 'adult' has been used in the revised rule.

Sd.

Deputy Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 17103 dated the 26th October 1951.

VGP. 3-7-56.

Sub-rule (4) of rule 17 of the Bombay Village Panchayats Secretaries (Conditions of Service) Rules, 1948, (pags 19-22 ante) provides that in every case, a selected candidate during the period of his training, a probationer during the period of his probation and a Secretary on being confirmed shall also be entitled to draw such allowances at such rates as may be prescribed under the rules framed by the District Local Board for its own servants. With reference to these Rules it appears that the Local Self Government and Public Health Department in its notes at pages 185-187 of their file S. 174(10)/27581 have taken the view that travelling allowances will be regulated by the Rules framed by the District Local Board concerned for its own servants. The said note has been approved by the Under Secretary, Sec retary and the Hon. Minis The Local Self Government and Public Health Department should therefore ascertain whether any rules by the District Local Board concerned are made and also to consider whether the said sub-rules should not be modified in view of the proposal now made to apply to the Secretary of the Panchayat the rules prescribed under the Bombay Civil Services Rules.

Sd. J.R.Dhurandhar.
28/ 11

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 19121, dated the 29th November 1951.

VGP. 3-7-56.

From the draft amendment as framed by the Local Self Government and Public Health Department at pages 35-36, it appears that the suspension contemplated in the amendment is on account of a criminal charge against the Secretary of a Panchayat.

The suspension contemplated by rule 24 of the Bombay Village Panchayats Secretaries (Conditions of Service) Rules 1948, is a penalty and would not include a suspension during the pendency of criminal proceeding against the Secy. It would be necessary to make a specific provision in the Rules for suspension of a Secretary during the pendency of a Criminal proceedings against him.

Rule 156 of the Bombay Civil Service Rules Manual Part I provides for such suspension. It would be proper to insert a rule in the said Village Panchayats Secretaries Rules on the lines of rule 156 of the Bombay Civil Service Rules. Under the said rule, a Government servant can be suspended if the charge against him is connected with his position as a Government servant or is likely to embarass him in the discharge of his duties as such or involves moral turpitude. The same principle should apply to a Secretary of a Panchayat.

Accordingly a revised draft notification is sent herewith.

Sd. J.R.Dhurandhar.
12/12

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 20460, dated the 22nd December 1951.

VGP. 3-7-56-